

**CITY OF BURLINGTON, VERMONT  
HOUSING BOARD OF REVIEW**

**In re: Request for Hearing of McKale Santin     )**  
**Regarding Withholding of Security     ) Security Deposit Appeal**  
**Deposit by Debora Bartlett for Rental    )**  
**Unit at 46 East Avenue, Apt. 1         )**

**DECISION AND ORDER**

The above-named hearing came before the Housing Board of Review on October 5, 2020; the hearing was held virtually via Zoom. Board Chair Josh O'Hara presided. Board Members Betsy McGavisk, Olivia Pena and Charlie Gliserman were also present. Petitioner McKale Santin was present and testified. Respondent Debora Bartlett was also present and testified.

Upon consideration of the evidence and the applicable law, the Board makes the following Findings of Fact, Conclusions of Law, and Order:

**Findings of Fact**

1. Respondent Debora Bartlett is the owner of a rental unit, 46 East Avenue, Apt. 1, in the City of Burlington which is the subject of these proceedings.
2. Petitioner moved into the rental unit on September 1, 2019 under the terms of a month-to-month written lease. Monthly rent was \$900.00.
3. Petitioner paid a security deposit of \$900.00 to respondent. Petitioner was to receive back his security deposit at the end of the lease minus any amounts withheld for damages.
4. Petitioner vacated the apartment on July 8, 2020.
5. On July 17, 2020, respondent sent petitioner by email, first class mail and certified mail a written statement in accordance with notice requirements. Said statement itemized damages totaling \$446.17. Included in the statement sent certified mail was a check in the

amount of \$453.83.

6. Petitioner disputed the timeliness of the notice of withholding and the return of part of his deposit. When petitioner failed to receive the deposit check he contacted respondent. Respondent discovered that the check and statement sent to petitioner by certified mail was routed to Pennsylvania and then to California; it was still in transit on July 28. Respondent stopped payment on the check and sent, by certified mail, a new check on July 28; this time, respondent mailed the check from the Colchester Post Office (rather than from Shelburne) in hopes that it would go directly to petitioner's address in Colchester. The new check was delivered on August 1, 2020.

#### **Conclusions of Law**

7. The City of Burlington's security deposit ordinance, Minimum Housing Code Sec. 18-120, took effect April 10, 1986 and governs any rental arrangements for dwelling units in the City of Burlington entered into or renewed after that date.

8. The State of Vermont's Landlord and Tenant Act, now codified at 9 V.S.A. Sec. 4451-68, applies to rental agreements for residential property entered into, extended or renewed on or after July 1, 1986. Its terms are to "be implied in all rental agreements" to which it is applicable. 9 V.S.A. Sec. 4453.

9. Under the city ordinance, as well as state law (the terms of which must be implied in the parties' rental agreement), a landlord must return the security deposit to a tenant within 14 days from the date on which the tenant vacated or abandoned the dwelling unit, with a written statement itemizing any deductions. City ordinance also provides that the written statement must inform the tenant of the opportunity to request a hearing before the Burlington Housing Board of Review within 30 days of receipt of the landlord's written statement. Minimum Housing Code

Sec. 18-120(c). The statement and any payment must be hand-delivered or sent by mail.

Minimum Housing Code Sec. 18-120(c). If a landlord fails to return the deposit with a statement within 14 days, the landlord forfeits the right to withhold any portion of the security deposit.

See, Minimum Housing Code Sec. 18-120(c) and 9 V.S.A. Sec. 4461(e).

10. Respondent sent a statement of withholding to petitioner on July 17, 2020 by email, regular mail and certified mail; the certified mail included a check for the return of part of the deposit. Petitioner did not receive the certified mail until August 1 because, through no fault of respondent's, the mail was routed by the post office to Pennsylvania and then California. When respondent discovered petitioner had not received the check, she sent a new check immediately, going so far as to mail it from the Colchester post office to ensure petitioner would receive it. The Board concludes respondent sent the statement and returned the deposit in a timely manner.

### **Order**

Accordingly, petitioner McKale Santin's request for relief is DENIED.

DATED at Burlington, Vermont this 4<sup>th</sup> of November, 2020.

CITY OF BURLINGTON  
HOUSING BOARD OF REVIEW

/s/ Josh O'Hara  
Josh O'Hara

/s/ Betsy McGavisk  
Betsy McGavisk

/s/ Olivia Pena  
Olivia Pena

/s/ Charlie Gliserman  
Charlie Gliserman